

PT 98-6

Tax Type: **PROPERTY TAX**

Issue: **Religious Ownership/Use**

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

| | | | |
|------------------------------------|---|---------------------------------|----------------------|
| ST. JAMES MISSIONARY |) | | |
| BAPTIST CHURCH OF HILLSBORO |) | Docket # | 95-68-36 |
| Applicant |) | | |
| |) | Parcel Index # | 08-201-656-00 |
| v. |) | | |
| |) | | |
| THE DEPARTMENT OF REVENUE |) | Barbara S. Rowe | |
| OF THE STATE OF ILLINOIS |) | Administrative Law Judge | |

RECOMMENDATION FOR DISPOSITION

Synopsis:

The hearing in this matter was held at the Illinois Department of Revenue, (hereinafter referred to as the "Department") on August 14, 1997, to determine whether or not a portion of Montgomery County Parcel Index No. 08-201-656-00 qualified for exemption during part of the 1995 assessment year.

Cecilia Hayes, member of the St. James Missionary Baptist Church (hereinafter referred to as the "Applicant") was present and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant was the owner of the parcel during all or part of the 1995 assessment year; secondly, whether the applicant is a religious organization; and lastly, whether all of the parcel was used by the applicant for primarily religious purposes during the 1995 assessment year. Following the submission of all the evidence and a review of the record, it is determined that the applicant owned the subject parcel during a portion of the 1995 assessment year. It is also determined that the applicant is a

religious organization. Finally, it is determined that the applicant used all of the parcel for primarily exempt purposes during a part of the 1995 assessment year. It is therefore recommended that Montgomery County Parcel Index Number 08-201-656-00 be exempt from property taxes for 50% of the 1995 assessment year.

Findings of Fact:

1. The jurisdiction and position of the Department that a part of Montgomery County Parcel Index Number 08-201-656-00 did not qualify for a property tax exemption for a portion of the 1995 assessment year, was established by the admission into evidence of Department's Exhibits numbered 1 through 5. (Tr. p. 10)

2. On September 18, 1996, the Department received a property tax exemption application and related documents from the Montgomery County Board of Review for Permanent Parcel Index Number 08-201-656-00. The applicant submitted the request and the board recommended granting the exemption for the period of June 7, 1995, through December 31, 1995. (Dept. Grp. Ex. No. 1)

3. On April 17, 1997, the Department granted in part and denied in part the requested exemption for 50% of the assessment year. The denial concerned the Sunday school building, which the Department found not to be in exempt use. (Dept. Ex. No. 3)

4. The applicant timely protested the decision regarding the Sunday school building and requested a hearing. (Dept. Ex. No. 4)

5. The hearing held at the Department's offices in Springfield, Illinois, on August 14, 1997, was pursuant to that request. (Dept. Ex. No. 5)

6. The applicant acquired the property in question by a warranty deed dated June 2, 1995. The deed was filed and recorded on June 8, 1995. The application form had June 7, 1995, as the date that the deed was executed. (Dept. Ex. No. 2 pp. 1 & 5)

7. I take administrative notice of the fact that the applicant was granted a property tax exemption by the Department pursuant to docket number 84-68-53. (Dept. Ex. No. 2 p. 12)

8. On the application and materials submitted with it, the applicant stated that the use of the Sunday school building was limited due to the need to completely renovate the building and that the facility would be used in the future for Sunday school and various church activities. (Dept. Ex. No. 1 pp. 1, 6, 9, 15, & 16)

9. The applicant included pictures showing vacant rooms within the Sunday school building. (Dept. Ex. 1 pp. 18 & 19)

10. When the applicant applied for the exemption, they planned to use the Sunday school building as a recreational facility for their youth, knowing that they would not be able to renovate the building immediately due to lack of funds. (Tr. p. 11)

11. In late June 1995, the applicant began storing old hymnals, Sunday school literature, and furniture for the church in the Sunday school building. Sheet rock needed for the renovation was also stored there. (Tr. p. 12)

12. Regarding the pictures submitted with the application showing the vacant rooms, the witness for the applicant admitted that she suggested to her husband that "we just clean it up really nice so that it will make a nice impression and it will just be really clean and so we went and did that." (Tr. p. 14)

13. The applicant submitted additional pictures showing furniture and books stored in the rooms. (Applicant's Ex. Nos. 2,3,4 & 5)

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to the authority granted by the Constitution, the legislature has enacted exemptions from property tax. At issue is the religious exemption found at 35 **ILCS** 200/15-40. That portion of the statutes exempts certain property from taxation in part as follows:

§ 15-40. Religious purposes, orphanages or school and religious purposes. All property used exclusively for religious purposes, or used exclusively for school and religious purposes, ... and not leased or otherwise used with a view to profit, is exempt,...

I find that the Department has determined that the applicant is a religious organization based upon the exemption granted pursuant to docket number 84-68-53 and the fact that a partial exemption was granted in the application at issue. I also find that the applicant owned the parcel in question for a portion of the 1995 assessment year. Therefore the only question before me is the use of the Sunday school building during that time.

The Illinois Appellate Court found that a church owned building which was not used for any purpose and was boarded up during the taxable years in question did not qualify for a property tax exemption for those years. Antioch Missionary Baptist Church v. Rosewell, 119 Ill.App.3d 981 (1st Dist. 1983) The Appellate Court has also determined that property owned by a church and used for the storage of church records and furniture did qualify for a property tax exemption in Our Savior Lutheran Church v. Department of Revenue, 204 Ill.App.3d 1055 (5th Dist. 1990), leave to appeal denied.

The testimony of Ms. Hayes, that she persuaded her husband to clean up the building in question to look nice in the pictures that the applicant submitted with the exemption request, was certainly credible. I therefore find that the applicant used the Sunday school building for storage from July 1, 1995, through December 31, 1995.

I recommend that all of Montgomery Parcel Index Number 08-201-656-00 be exempt from property taxation for 50% of the 1995 assessment year.

Barbara S. Rowe
Administrative Law Judge

January 6, 1998